

Exhibit D

Electronic Acknowledgement Receipt

EFS ID:	5200981
Application Number:	09972424
International Application Number:	
Confirmation Number:	8244
Title of Invention:	One click web records
First Named Inventor/Applicant Name:	Chris E. Matichuk
Customer Number:	20306
Filer:	GEORGE I. LEE
Filer Authorized By:	
Attorney Docket Number:	03-509-A
Receipt Date:	22-APR-2009
Filing Date:	04-OCT-2001
Time Stamp:	18:07:58
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$540
RAM confirmation Number	4449
Deposit Account	132490
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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1	Appeal Brief Filed	03-509-A_Pre- Appeal_Brief_Request_for_Review.pdf	100860 ca7f475d3c5711cde130a6d8b1990c1e976f4	no	1
Warnings:					
Information:					
2	Appeal Brief Filed	03-509-A_Pre- Appeal_Brief_Request.pdf	127726 19e124122bca9f1a11ba6f7b0e6e702d09f2fc42	no	4
Warnings:					
Information:					
3	Appeal Brief Filed	03-509-A_Notice_of_Appeal.pdf	90273 401392a9d5c2911b5739f8d5b39229f8f6d790d682	no	1
Warnings:					
Information:					
4	Fee Worksheet (PTO-06)	fee-info.pdf	29660 e69428858f6e603a3a7d7d1225e80794f018fab0	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			348519		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					

Electronic Patent Application Fee Transmittal

Application Number:	09972424			
Filing Date:	04-Oct-2001			
Title of Invention:	One click web records			
First Named Inventor/Applicant Name:	Chris E. Matichuk			
Filer:	GEORGE I. LEE			
Attorney Docket Number:	03-509-A			
Filed as Large Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Notice of appeal	1401	1	540	540
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				540

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 03-509-A		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 09/972,424	Filed October 4, 2001		
First Named Inventor Chris E. Matchuk				
<table style="width: 100%;"> <tr> <td style="width: 50%;"> Art Unit 2145 </td> <td style="width: 50%;"> Examiner Azizul Q. Choudhury </td> </tr> </table>			Art Unit 2145	Examiner Azizul Q. Choudhury
Art Unit 2145	Examiner Azizul Q. Choudhury			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>PRE-APPEAL BRIEF REQUEST FOR REVIEW ACCOMPANYING NOTICE OF APPEAL</p> <p>I am the</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/95) <input checked="" type="checkbox"/> attorney or agent of record. Registration number 39,269 </td> <td style="width: 50%; vertical-align: top;"> <u>/George I. Lee/</u> <div style="text-align: right;">Signature</div> <u>George I. Lee</u> <div style="text-align: right;">Typed or printed name</div> <u>312-913-2134</u> <div style="text-align: right;">Telephone number</div> <u>April 22, 2009</u> <div style="text-align: right;">Date</div> </td> </tr> </table> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			<input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/95) <input checked="" type="checkbox"/> attorney or agent of record. Registration number 39,269	<u>/George I. Lee/</u> <div style="text-align: right;">Signature</div> <u>George I. Lee</u> <div style="text-align: right;">Typed or printed name</div> <u>312-913-2134</u> <div style="text-align: right;">Telephone number</div> <u>April 22, 2009</u> <div style="text-align: right;">Date</div>
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<input type="checkbox"/> *Total of _____ forms are submitted.				

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)
03-509-A

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed
name _____

In re Application of
Chris E. Matichuk

Application Number
09/972,424

Filed
October 4, 2001

For One Click Web Records

Art Unit
2145

Examiner
Azizul Q. Choudhury

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20 (b)(1)) **\$540.00**

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____
- ☐ A check in the amount of the fee is enclosed,
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 132490.
- ☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 39,269
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number If acting under 37 CFR 1.34. _____

/George I. Lee/

Signature

George I. Lee

Typed or printed name

312-913-2134

Telephone number

April 22, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(MBHB 03-509-A)**

In the Application of:)	
)	Examiner: Azizul Q. Choudhury
Chris E. Matichuk)	
)	
Serial No.: 09/972,424)	Group Art Unit: 2145
)	
Filing Date: October 4, 2001)	
)	Confirmation No.: 8244
For: One Click Web Records)	

**PRE-APPEAL BRIEF REQUEST FOR REVIEW ACCOMPANYING
NOTICE OF APPEAL**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SIR:

ERRORS IN THE PRIOR REJECTION

Consistent with the Review Requirements for identification of clear errors, Applicants note the following clear errors set forth in the January 22, 2009 Final Office Action:

The Examiner's rejection of claims 1-40 under 35 U.S.C. § 103(a) as being unpatentable over the prior art references of Killian (U.S. Pat. No. 6,163,316) and Klosterman (U.S. Pat. No. 5,940,073) is clearly based on factual errors and should be reversed by the Panel.

REMARKS

Applicants respectfully request reconsideration of Examiner's rejection of claims 1-28 and 33-40 under 35 U.S.C. §103(a). The Examiner has rejected these claims in view of the cited prior art references of Killian and Klosterman.

Applicants submit that the Examiner has failed to assert a prima facie case of obviousness for at least the reason that Killian and Klosterman, considered individually or in combination, fail to disclose each and every element of the claimed invention. Applicants do not concede that one of ordinary skill in the art would have combined the Killian and Klosterman references as asserted by the Examiner. However, even if, hypothetically and only for the purposes of this Pre-Appeal Brief Request for Review, the references were combined, the combination would still fail to disclose each and every element of the claims 1-28 and 33-40.

A. The §103(a) Prior Art Rejection of Claims 1-28 and 33-40 Is Clearly Based on

Factual Error

The Examiner conceded on page 4 of the last Office Action that Killian fails to teach the selection of an advertisement to start the scheduling of the recording of the programming. This is a feature recited in independent claims 1, 19, 24, 33, 35 and 37. Accordingly, the Examiner relies upon Klosterman for teaching this feature.

1. Klosterman Fails to Teach Selecting an Advertisement to Schedule the

Recording of the Programming

On page 4 of the Office Action, the Examiner states that Klosterman discloses while viewing through the computer, the user is allowed to click on an advertisement which allows the remote (the recording device can be disparate from the computer) automatic scheduling of the recording of the infomercial/program, citing column 2, lines 14-17. The cited portion of

Klosterman states “if the information region contains advertising information *regarding a product*, the user may click on the information region to see a billboard or schedule a recording of an *informercial* on the product.”

Applicants submit that the Examiner’s citation of Klosterman for teaching the claimed limitation of “enabling selection of the advertisement; and in response to selection of the advertisement, automatically remotely programming the media-based device to record the broadcast program at the predetermined start time” or language to that effect as recited in independent claims 1, 19, 24, 33, 35 and 37, is clearly based on factual error for at least two reasons.

2. Klosterman Does Not Teach Clicking On an Advertisement for a Broadcast Program

First, Klosterman teaches that the user may click on the information region to schedule a recording for an infomercial on a product, “*if the information region contains advertising information regarding a product*” col. 2, lines 14-17. Applicants submit that because Klosterman is directed at an electronic program schedule guide, wherein the program guide has information regions for additional information, *a product* is different from *a broadcast program* on the program guide. As such, Klosterman is expressly directed toward selecting a *product*. As discussed below, Klosterman does not teach clicking on an advertisement for a broadcast *program* to schedule recording of the program itself.

3. Klosterman Does Not Teach Clicking On an Advertisement for a Broadcast Program to Schedule Recording the Actual Program Itself

Moreover, Klosterman teaches clicking on the advertisement for the product to see a billboard or schedule a recording of an *informercial* on the product. Applicants submit that even

if, hypothetically and only for the purposes of this brief, *a product* is construed as *a broadcast program*, Klosterman teaches clicking on an advertisement of the product/program resulting in recording of the infomercial/trailer of the program. Col. 2, lines 14-17. Klosterman does not teach that clicking on the advertisement results in scheduling the recording of the actual broadcast program itself. Rather, clicking on the program obtains more information about the program (billboard or infomercial), not recording the advertised program itself.

In other words, the relationship of what is clicked and what is recorded in Klosterman (advertisement for product/infomercial on the product) is differs from claims 1-28 and 33-40 recitation of what is clicked and what is recorded.

For at least the reasons stated above, Applicants submit that the Examiner's rejection of claims 1-28 and 33-40 is clearly based on factual errors and should be overturned by the Panel.

As such, Applicants submit that Klosterman fails to make up for the deficiencies of Killian and that accordingly, the Examiner's rejection of claims 1-28 and 33-40 is clearly based on factual errors and should be overturned by the Panel.

For at least this reason, Applicants submit that the Examiner's rejection is clearly erroneous and should be overturned by the Panel.

Respectfully submitted,

McDONNELL BOEHNNEN
HULBERT & BERGHOFF LLP

Date: April 22, 2009

By: /George I. Lee/
George I. Lee
Registration No. 39,269